THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25103 OF 2005

DATED:9.12.2005

Between:

M/s.Masarath Enterprises

Rep. by Proprietor, Syed Lateef,

S/o.Syed Jamal

R/o.D.No.4-23,

Patancheru Village and Mandal

Medak District

…Petitioner

And

The General Manager (Engg.)

Hyderabad Metropolitan Water Supply &

Sewerage Board (HMWSSB)

Operation & Maintenance, Division No.8

Patancheru, Medak District.

…Respondent

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ORDER:

The petitioner is a proprietary concern owning a complex of twenty shops in premises No.15-35/5, in Patancheru. The petitioner availed half inch dia water supply connection from Hyderabad Metropolitan Water Supply and Sewerage Board (hereafter called, the Water Board). The petitioner alleges that though he is paying monthly water bills regularly, on 1.9.2005 the respondent disconnected water supply without giving any reason. The petitioner approached the respondent for restoration of water supply, in vain. Therefore, present Writ Petition is filed.

At the stage of admission itself, the respondent has filed a counter affidavit opposing the Writ Petition. It is stated in the counter affidavit that the petitioner made an application for sanction of water supply connection to an extent of 1.5 kl. per day and accordingly he was given water connection No.8091/2005 in 1999. The petitioner is the owner of only one shop for which he has obtained water connection, but the same is not meant for all the shops. The petitioner is running a scrap shop and therefore he requires water only for domestic purpose. The petitioner is misusing the water, in that he is drawing water, filling his tank and selling the stored water to other shops. As the petitioner was given water connection from main transmission line, he is able to draw water for twenty-four hours a day excessively and supplying water on commercial lines. Therefore, the Manager (Engineering) of the Water Board gave notices on 19.2.2005 and 18.8.2005, to stop selling water and finally disconnected supply on 31.8.2005. The conduct of the petitioner in supplying water for commercial concerns collecting money is in violation of Rule 16 of the Water Supply Rules and therefore in accordance with Section 42(c) of the Hyderabad Metropolitan Water Supply and Sewerage Act, 1989 (for short, the Act), the water supply was disconnected.

The learned counsel for the petitioner strenuously contended that the petitioner is utilizing water for his own premises and he is not selling water to others. He also submits that disconnecting water supply without notice amounts to violating fundamental right under Article 21 of the Constitution of India. **Per contra**, learned Standing Counsel for the Water Board submits that the petitioner being a scrap dealer, at best requires small quantity of water, but the water drawn by the petitioner from 2000 onwards is between 100 kl to 1,564 kl. and therefore notice was issued to the petitioner on two occasions on 19.2.2005 and 18.8.2005 requesting him to stop selling water. As the petitioner did not stop, the water connection was disconnected. She has placed before this Court Xerox copies of customer ledger for the petitioner account, which would show that the petitioner has drawn and is drawing huge quantities of water for month.

It is rather surprising that as to why a scrap dealer running a small shop requires such huge quantity of water. Therefore, a reasonable inference can be drawn that the petitioner is misusing the water by supplying to others. The petitioner admittedly is not even the owner of other shops. Even if he is owner, nothing prevents the other lessees of the shops to apply to the Water Board for water connections. Merely because the other shops owners do not have water connections, it does not mean that the petitioner can avail water supply at concessional rate from the Water Board and supply it to others at higher cost. No duty is cast on the Water Board to supply water to consumer to enable the latter to make profit out of the water supplied by the Water Board. The submission that no notice was issued before disconnection stands belied by the copies of the notices produced before this Court, and the reply sent by the petitioner to the Board. Therefore, this Court does not find any infirmity in the action of the respondent. Liberty is however given to the petitioner to make a representation to the respondent to avail water supply for domestic consumption, in which event, it shall be open to the respondent to consider the feasibility of giving a fresh connection from a service

line (not from main transmission line or distribution line) to the petitioner.

The Writ Petition with the above observations is accordingly dismissed.

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(V.V.S.RAO, J)

2.12.2005

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